



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Insurance Commissioner

☒ **Preproposal Statement of Inquiry** was filed as WSR 04-11-108; or

☐ **Expedited Rule Making--Proposed notice** was filed as WSR _____; or

☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

Title of rule and other identifying information: Clarification to Insurance Scoring rules.

Insurance Commissioner Matter No. R 2004-01

Hearing location(s):

John L O'Brien Building
House Hearing Room C,
504 15th Avenue SW
Olympia, WA 98504

Date: 12/16/04 **Time:** 9:00 AM

Date of intended adoption: 12/27/04

(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Kacy Scott

Address: PO Box 40255, Olympia, WA 98504-0255

e-mail Kacys@oic.wa.gov

fax (360) 586-3109 by 12/15/04

Assistance for persons with disabilities: Contact

Lori Villaflores by 12/14/04

TDD (360) 586-0241 or (360) 725-7087

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The existing credit scoring rules, Chapter 284-24A, were reviewed and rewritten to provide more information. Data requirements for multivariate analysis were clarified to be more consistent with how insurers collect data. Data requirements for demographic factors were revised to allow insurers to group rural and urban territories when they provide data relative to consumers who have no available insurance score. What constitutes "eligibility rules or guidelines" under RCW 49.19.035(2)(b) is explained to help insurers understand what data are confidential. A new section is added to explain the process insurers must use to identify and file eligibility rules and guidelines. Finally, the types of information that insurers must provide to consumers when an adverse action is taken is clarified so that consumers will be sent information they can understand.

These proposed rules will reduce OIC staff time in reviewing rate filings. These proposed rules will also reduce consumer complaints because consumers will have better information about adverse actions taken by insurers based on insurance scores.

Reasons supporting proposal:

HB 2727 was enacted in the 2004 session to clarify the filing requirements for insurers who use insurance scoring to set rates. These proposed rules will help the implementation of this law. OIC has received many consumer complaints relating to the adverse actions notices required by RCW 48.18.545(2). Consumers have found notices confusing, and the complaints have suggested WAC 284-24A needs further amendments so insurers provide better information to consumers about their insurance scores.

Statutory authority for adoption: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010

Statute being implemented: RCW 48.18.545 and 48.19.035

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE

November 3, 2004

NAME (type or print)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY

Information input by Agency

**CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED**

OCT 2 2004

TIME 11:40 **am**

WSR 04-22-089

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

A previous CR-102 was filed in this rule-making process on August 18, 2004 and a previous public hearing held on September 3, 2004. The Commissioner received many comments and suggestions. The Commissioner decided that all parties would be best served by the ability to comment on a revised draft that incorporated many of the suggestions proposed by interested parties.

Name of proponent: Mike Kreidler, Insurance Commissioner

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Lisa Smego	Tumwater, WA	(360) 725-7134
Implementation. Scott Jarvis	Tumwater, WA	(360) 725-7262
Enforcement.....Carol Sureau	Tumwater, WA	(360) 725-7050

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

The proposed rule should have no negative economic impact on small businesses regulated by the OIC.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

☒ No: Please explain: This proposal is not a significant legislative rule for the purposes of RCW 34.05.328.

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

WAC 284-24A-005 What definitions are important to these rules? "Demographic factors" means the factors listed below if they are used in an insurer's rates, rating tiers, rating factors, rating rules or risk classification plan:

- ☐ Age of the insured;
- ☐ Sex of the insured;
- ☐ The rating territory assigned to the insured's primary home address(~~;~~ and
- ☐ ~~The zip code assigned to the insured's primary home address~~)).

"Premium" means the same as RCW 48.18.170.

"Rate" means the cost of insurance per exposure unit.

"Rating factor" means a number used to calculate premium.

"Risk classification plan" means a plan to formulate different premiums for the same coverage based on group characteristics.

"Significant factor" means an important element of a consumer's credit history or insurance score. Examples of significant factors include:

- ☐ Bankruptcies, judgments, and liens;
- ☐ Delinquent accounts;
- ☐ Accounts in collection;
- ☐ Payment history;
- ☐ Outstanding debt;
- ☐ Length of credit history; and
- ☐ Number of credit accounts.

"Substantive underwriting factor" means a factor that is very important to an underwriting decision. Examples of substantive underwriting factors include:

- ☐ History of filing claims;
- ☐ History of moving violations or accidents;
- ☐ History of driving uninsured;
- ☐ Type of performance for which a vehicle is designed; and
- ☐ Maintenance of a structure to be insured.

"Vehicle" means any motorized vehicle that can be insured under a private passenger auto insurance policy.

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

WAC 284-24A-010 What must an insurer tell a consumer when it takes an adverse action? (1) An insurer must tell a consumer about significant factors that adversely affect the consumer's credit history or insurance score. As many as four factors may be needed to explain the adverse action.

(2) An insurer must explain what significant factors led to an adverse action in clear and simple language. The explanation must provide the consumer the reason(s) that their credit history has adversely affected their:

□ Eligibility for insurance; or

□ Ability to buy insurance at the lowest premium or rate.

(3) ~~((An insurer may choose to tell consumers which factors positively affect a consumer's credit history or insurance score.))~~ The insurer is responsible for making sure that the reason(s) an adverse action occurred is written in clear and simple language, even if the reason(s) is provided to the insurer by a vendor.

NEW SECTION

WAC 284-24A-011 What types of information must an insurer provide in addition to the reason(s) for the adverse action to comply with WAC 284-24A-010(3)? (1) Insurers must provide information that helps the consumer determine why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer. The following information must be included with the reason for the adverse action:

(a) A description of the attribute of credit history that adversely affected the consumer's insurance score;

(b) How the attribute of credit history affected the insurance score; and

(c) What the consumer can do to improve this attribute of the insurance score.

(2) If an insurer refers to insurance industry research or studies to justify the effect of an insurance score on premiums or eligibility for coverage, the insurer must file those studies with the insurance commissioner so that they are available for public disclosure.

NEW SECTION

WAC 284-24A-012 What types of reasons do not provide enough information to adequately explain an adverse action? An insurer must explain any adverse action in clear and simple language. Insurers must not use phrases that do not explain why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer.

(1) Explanations of adverse actions that do not meet this standard include, but are not limited to:

- (a) Unfavorable length of credit history.
- (b) Absence of revolving credit account.
- (c) Age of oldest account or revolving credit account.
- (d) Age that consumer first opened a credit account.
- (e) Unfavorable number of bank or revolving accounts.
- (f) Unfavorable debt ratio.
- (g) Unfavorable number of accounts opened in past year.

(2) Insurers must not use the term "unfavorable" to describe an attribute of credit history because it does not provide clear information to the consumer about their credit history.

NEW SECTION

WAC 284-24A-032 Under RCW 48.19.035(2) what does "eligibility rules or guidelines" mean? "Eligibility rules or guidelines" mean rules that determine whether a consumer is eligible for insurance from a single insurer or a group of affiliated companies. Eligibility rules or guidelines do not include rules that determine which company within an affiliated group of companies a consumer will be placed based on their insurance score or other underwriting criteria.

NEW SECTION

WAC 284-24A-033 How will an insurer or a group of affiliated insurers know its eligibility rules or guidelines will be withheld from public inspection? Eligibility guidelines will be kept as confidential records if they:

- (1) Conform to the definition in WAC 284-24A-032; and
- (2) Are clearly identified.

To ensure confidentiality, insurers should submit eligibility guidelines in a separate and distinct part of the related rate filing so they may be separated from other documents in the filing that are public records under RCW 48.19.040(5).

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

WAC 284-24A-045 If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, how can the insurer show that its rating plan results in premium rates that are not excessive, inadequate, or unfairly discriminatory? If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, the insurer must:

- (1) Submit a multi variate analysis with the first rate and rule filing the insurer makes to comply with this law.
- (2) Submit a multivariate analysis any time the insurer uses credit history or an insurance score to revise a risk classification plan, rating factor, rating plan, rating tier, or base rates.

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

WAC 284-24A-050 What types of information must an insurer include in a multivariate analysis? (1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

(a) For homeowners, dwelling property, earthquake, and personal inland marine insurance:

- (i) (~~((Credit history;))~~) Insurance score;
- (ii) Territory and/or (~~((location))~~) geographic area;
- (iii) Protection class;
- (iv) Amount of insurance;
- (v) Surcharges or discounts based on loss history;
- (vi) Number of family units; and
- (vii) Policy form relativity.

(b) For private passenger automobile, personal liability and theft, and mechanical breakdown insurance:

- (i) (~~((Credit history;))~~) Insurance score;
- (ii) Driver class;
- (iii) Multicar discount;
- (iv) Territory and/or geographic area;
- (v) Vehicle use;
- (vi) Rating factors related to driving record; and
- (vii) Surcharges or discounts based on loss history.

(2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:

- (a) Formulas the model uses;
- (b) Rating factors that are included in the modeling process; and

(c) Output from the model, such as indicated rates or rating factors.

(3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

WAC 284-24A-055 Should an insurer submit actuarial data based on demographic factors with an insurance scoring model or with a rate filing? (1) Insurers should not submit actuarial data based on demographic factors with their insurance scoring model.

(2) Insurers must submit actuarial data based on demographic factors to support any difference in rates or premiums based on:

(a) **"No hit,"** which means the absence of credit history; or

(b) **"No score,"** which means the inability to determine the consumer's credit history.

(3) The actuarial data must include:

(a) Loss history for an experience period acceptable to the commissioner. The length of the experience period will be determined by the amount of data available to the insurer.

(b) Earned exposures.

(c) Earned premiums.

(d) An analysis of the credibility of the data.

(4) The actuarial data must be segmented by:

(a) Demographic factors, which may be grouped in broader categories in a manner acceptable to the commissioner;

(b) "No hit"; and

(c) "No score."

(5) The actuarial data must show that the proposed rates, rating factors, rating rules, or risk classification plans relating to "no hit" and "no score" comply with RCW 48.19.020.

(6) These filings are subject to prior approval by the commissioner under the provisions of RCW 48.19.040.

AMENDATORY SECTION (Amending Matter No. R 2001-11, filed 9/6/02, effective 10/7/02)

WAC 284-24A-065 Questions and answers. (1) **Our insurance company uses insurance scoring bands (a range of scores) to determine what to charge a consumer based on their personal insurance score. Does an insurer have to file its insurance scoring bands?** Yes. If an insurer uses insurance scoring bands for rating purposes, the insurer must file them (and any future changes to those bands). The bands are part of the rating plan and must be supported by actuarial analysis.

(2) **What types of data can an insurer use to support a credit-based rating plan?** A credit-based rating plan must be based on the experience of the insurer, an affiliated insurer under the same management, or a licensed rating organization. The commissioner will accept data from other states where comparable credit-based rating plans are in effect.

(3) **The law says an insurer cannot use the number of credit inquiries to set rates or to deny insurance. Can an insurer consider the amount of time since the most recent inquiry?** Yes. The law prohibits an insurer from considering the number of credit-seeking or promotional inquiries. It does not prohibit ((you)) an insurer from considering the length of time since the most recent inquiry about a consumer's credit rating.

(4) **The law says an insurer cannot use collections identified with a medical industry code to set rates or to deny insurance. Not all credit vendors provide industry codes for collection accounts. If a vendor searches for medical references in a text field, would that action comply with the law?** Yes. Collections identified with a medical industry code cannot be used. If medical history is not coded or identified, insurers and vendors are not required to perform additional research.

(5) **The law says an insurer cannot use the initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history to set rates or to deny insurance. Can my company use the number of such loans and/or the outstanding balance of such loans?**

□ An insurer may not use the initial purchase of a home or vehicle to affect eligibility for insurance or insurance premiums. The initial purchase is the first loan taken out to buy a home or vehicle.

□ An insurer may evaluate any subsequent borrowing by a consumer.

□ A method an insurer or vendor can use to comply with the law is to eliminate vehicle and home loans from the consumer's debt load calculation.

(6) **The law says an insurer cannot use the total available line of credit to set rates or to deny insurance. Can my**

company use number of credit lines with limits over a set amount?

□ The law prohibits use of data related to the consumer's total available line of credit. Any attribute that evaluates the total amount of credit available to a consumer is prohibited.

□ ((~~You~~)) Your insurer may use the debt/credit ratio or other ratios that consider the actual debt load. The law does not restrict use of ratios that determine whether an insured is over-extended due to actual debt.